SBCivil Writ Petition No.5646/2004

Bhakar Ram & Anr.
V.
Sohan Lal & Ors.

Date of Order :: 5th May, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kamal Dave, for the petitioners.
Mr. M.D.Boob, for the respondents.

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By this petition for a writ a challenge is given to the order dated 12.10.2004 passed by learned Additional Civil Judge (SD), Jodhpur permitting the defendant to file written statement even after expiry of the time period as prescribed under Order 8 Rule 1 CPC.

The contention of counsel for the petitioners is that the provisions of Order 8 Rule 1 CPC are mandatory in nature and, therefore, the trial court exceeded jurisdiction vested with it while permitting the defendant to file the written statement.

Heard counsel for the parties.

The provisions of Order 8 Rule 1 CPC being pertaining to procedure are not mandatory and the trial court by exercising broad discretion vested with it permitted the defendant to file written statement with cost of Rs.100/-. Such discretion exercised by

the trial court does not warrant interference of this Court under Article 227 of the Constitution of India, if not exercised exceeding the jurisdiction vested or without application of mind.

In the instant matter I do not find any illegality in the order impugned, therefore, the writ petition is dismissed.

(GOVIND MATHUR),J.

kkm/ps.